IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 512 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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TIRUPATI LIME

Versus

ASIAN LIME

Appearance:

1. Appeal from Order No. 512 of 1999

MR RR SHAH for Petitioner No. 1

MR NAVIN K PAHWA for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 18/09/2001

ORAL JUDGEMENT

1. The appellant - defendant has filed this Appeal against the impugned order dated 22.9.1999 passed by the learned Extra Assistant Judge, Gondal, below Ex.5 in Regular Civil Suit No.2 of 1999 whereby the learned Judge

allowed the Application Ex.5 and confirmed the ex-parte ad.interim injunction granted in favour of the respondent - plaintiff in terms of Para : 21(A) of Application Ex.5 till the final disposal of the Suit.

2. This Appeal was admitted on 26.10.1999. Along with this Appeal Civil Application No.12022 of 1999 was filed. The said Application was finally disposed of on 26.10.1999 by the learned Single Judge of this Court with certain directions and conditions.

3. While disposing of that Application the learned Judge directed the respondent - plaintiff to maintain the accounts of labels, sales and goods manufactured and to give account of it at the end of every month before the trial Court. The trial Court was directed to appoint Court Commissioner for gathering the details regarding the quantity of labels, goods which the respondent was having at that relevant point of time. By way of security the respondent plaintiff was directed to deposit a sum of Rs.50,000/- by way of Fixed deposit with any scheduled Bank and the receipt of it was ordered to be deposited before the trial Court.

4. The respondent - plaintiff was also directed to file undertaking before the trial Court to the effect that the amount so deposited with the Bank shall not be withdrawn unless and until the trial Court grant permission for it.

5. It was also made clear that if the respondent - plaintiff ultimately fails in the Suit then it would be open to the trial Court to award compensation to the appellant - defendant and in that event the amount deposited with interest thereon or further additional amount which may be determined by the trial Court be paid to the appellant - defendant.

6. In view of above order passed on Civil Application, in my considered opinion nothing more is required to be done in this Appeal and accordingly it is required to be disposed of in terms of the order dated 26.10.1999 passed by the learned Single Judge in Civil Application No. 12022 of 1999.

7. Accordingly, without going into legality and validity of the order passed by the learned udge this Appeal is disposed of in the abover terms mentioned in Civil Application No.12022 of 1999 filed in this Appeal.

8. Before parting I must state that the hope

expressed by the learned Single Judge of this Court while deciding the Civil Application No.12022 of 1999 for early disposal of the Suit preferably before 30.6.2000 stands believed because of non-cooperation attitude of the appellant - defendant, who has not so far filed any written statement, as stated at the bar by learned Counsel Shri Pahwa for the respondent. If it is so then it is most unfortunate. However, learned Counsel Shri R.R.Shah for the appellant - defendant stated at the bar that if the Appellant - defendant has not filed any written statement so far then he shall file written statement within 8 weeks from today before the trial Court.

9. Accordingly this Appeal is disposed of with direction to the learned Judge to dispose of Regular Civil Suit No.2 of 1999 as early as possible, but not later than 30th September 2002. The parties shall fully cooperate with the final disposal of the suit.

10. Before parting, I may also state that when the learned Single Judge of this Court while disposing of Civil Application No.12022 of 1999 expressed his hope to dispose of the Suit preferably on or before 30.6.2000 then it was the bounden duty of the learned Judge to get the Suit disposed of by that time. If for any reason he is not in a position to dispose of the Suit by that time then before the date of expiry he should have asked for extention. Not doing so may amount to contempt.

With this observation this Appeal is disposed of.

sd/-

Date : September 18, 2001 (B.J.Shethna, J.)

sas